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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,732	09/08/2003	Toshio Sato	0149-031767	8929

7590 07/28/2004

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EXAMINER

ROBINSON, BINTA M

ART UNIT

PAPER NUMBER

1625

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,732

Applicant(s)

SATO ET AL.

Examiner

Binta M Robinson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/19/01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Detailed Action

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable Michalowicz et. al. (See Reference A).

Michalowicz et. al. teaches the instant process of producing pyridine, 2-3-dicarboxylic acids of formula I are each hydrogen comprising oxidizing quinoline by reacting it with an alkali in the form of a chlorate salt in the presence of a cupric compound, and resolving the resulting copper salt of the pyridine,2-,3-dicarboxylic acid into the acid itself by known methods, such as digestion with caustic soda or sulfide, removing the copper oxide by filtration a and acidifying the free acid . At column 3, lines 59-63, 65-68, at column 4, lines 1-2 and lines 66-68, and at column 5, lines 1-20, see the Michalowicz process. The difference between the prior art process and the instantly claimed process is the teaching of the production of a generic compound versus a disclosed species. It would have been obvious to one of ordinary skill in the art to select various known radicals within a genus to prepare structurally similar compounds. Accordingly, the process is deemed unpatentable therefrom in the

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absence of a showing of unexpected results for the claimed process over those of the generic prior art process.

Rebhahn et. al. teaches the instant process of producing pyridine, 2-3-dicarboxylic where quinoline is oxidized in an initial step with hydrogen peroxide in an aqueous medium in the presence of sulfuric acid and copper sulfate to produce copper quinolate and in subsequent steps, the copper quinolate is treated with alkali to convert said copper quinolate to its soluble alkali salt for which is removed from the insoluble cupric oxide and thereafter said soluble alkali salt is treated with acid to produce quinolinic acid, the improvement. The copper quinolate thus obtained is dissolved and heated in the presence of sodium hydroxide to precipitate the copper oxide which is separated by filtration. At column 7, lines 1-40, and at column 14, claim 1, see the Rebhahn process. The difference between the prior art process and the instantly claimed process is the teaching of the production of a generic compound versus a disclosed species. It would have been obvious to one of ordinary skill in the art to select various known radicals within a genus to prepare structurally similar compounds. Accordingly, the process is deemed unpatentable therefrom in the absence of a showing of unexpected results for the claimed process over those of the generic prior art process.

The IDS filed 5/19/01 has been considered. The references that have been crossed out will not be considered until a translation has been provided.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binta M. Robinson whose telephone number is (571) 272-0692. The examiner can normally be reached on M-F (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on 571-272-0699.

A facsimile center has been established. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier numbers for accessing the facsimile machine are (703)308-4242, (703)305-3592, and (703)305-3014.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)-272-1600.

BMR
July 26, 2004


JOSEPH K. MCKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600